

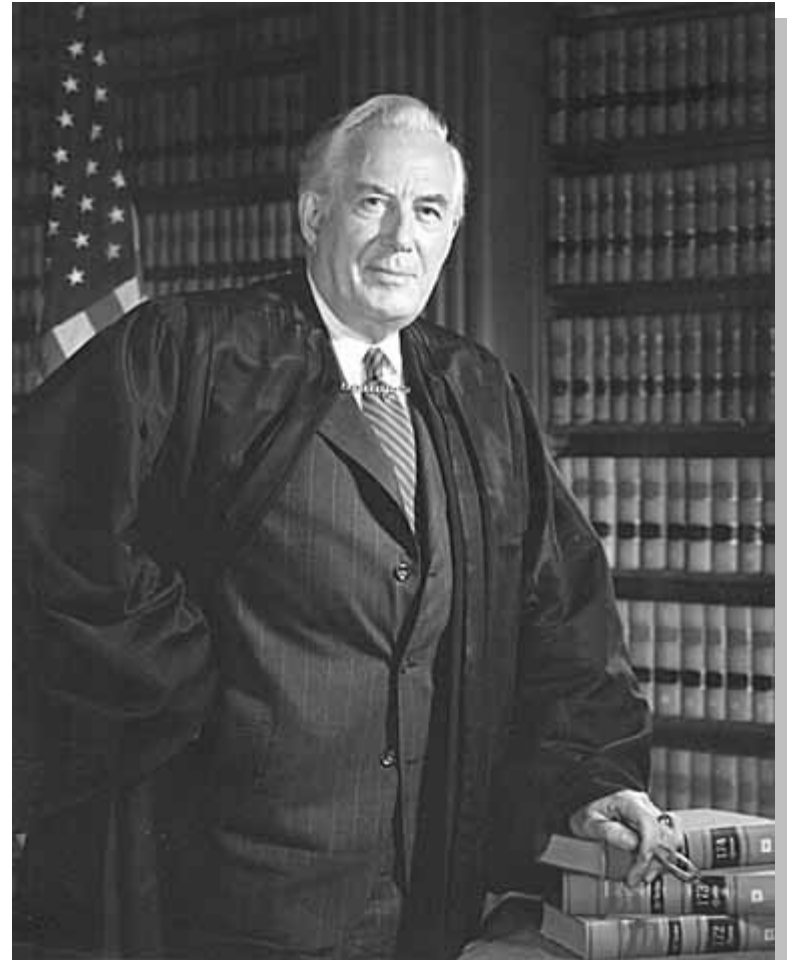


Alternative Dispute Resolution (ADR) in American Society, the Executive Branch and the DON

DON ADR Program Office

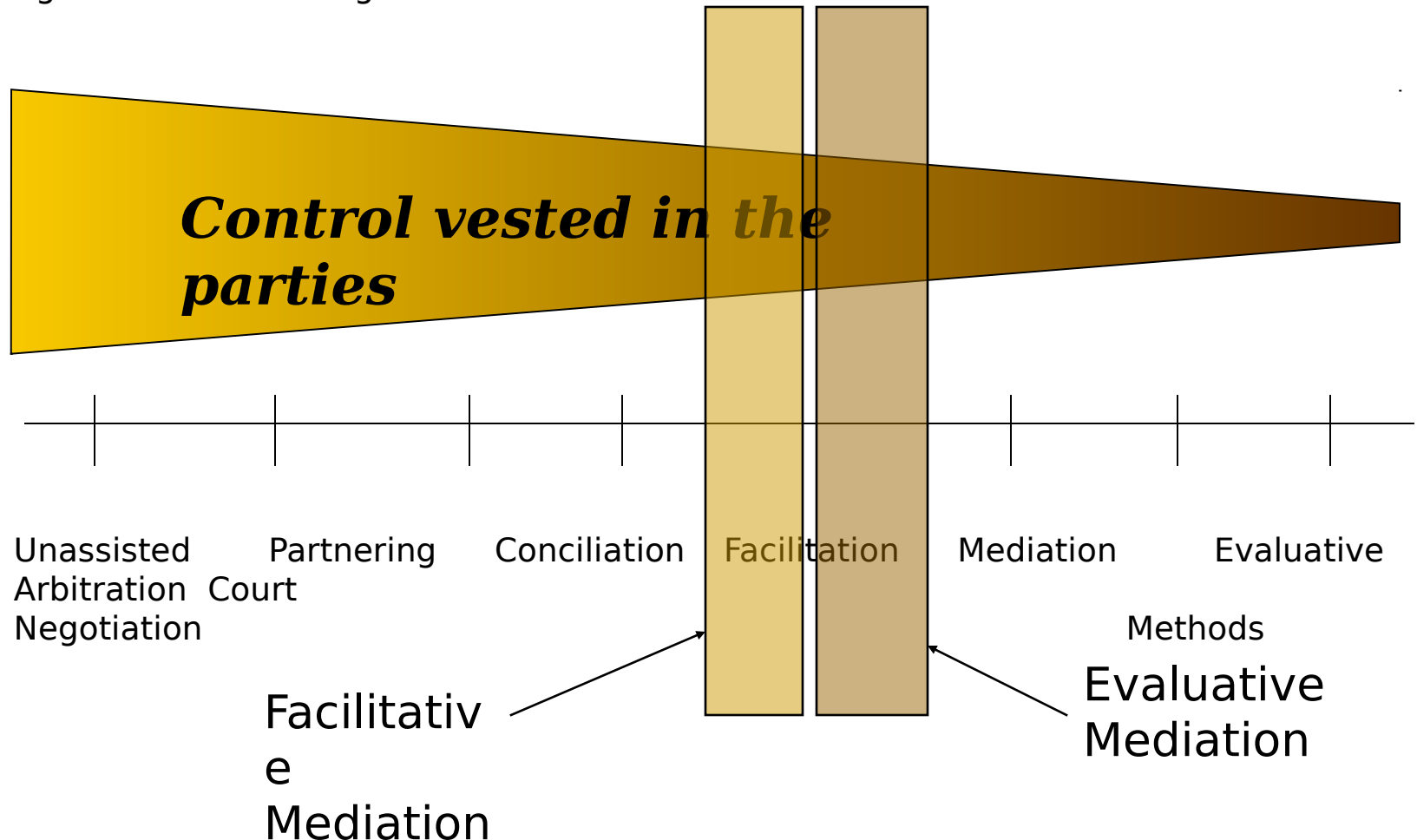
“The notion that most people want black-robed judges, well-dressed lawyers, and fine paneled courtrooms as the setting to resolve their dispute is not correct. People with problems, like people with pains, want relief, and they want it as quickly and inexpensively as possible.”

Warren E. Burger,
former Chief Justice United States
Supreme Court



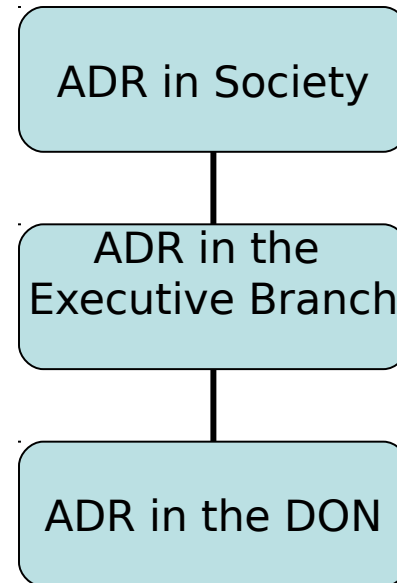
ADR Methods

The court system gives a lot of power to judges. ADR techniques return the power to the parties. Some processes return more control to the parties than others. Further, each technique can be adjusted to give more or less control to the parties. Each method has advantages and disadvantages.



The Big Picture: ADR in Context

Before discussing ADR in the DON, let's consider how our legal system has changed since Mr. Chief Justice Warren sat on the bench.



ADR in Society

- ADR Programs in US Courts:
 - 149 federal district court programs,
 - 13 federal appellate programs
 - 65 state court programs, including 44 state-wide programs.
- Legal departments in major corporations actively use ADR as part of “Early Case Assessment” or Early Dispute Resolution” programs.
- Uniform Mediation Act (UMA)
 - Adopted in eight jurisdictions
 - Proposed in four others
- 254 GCs from very large companies report that the number one reason to use mediation is that it saves money (91%).
- Legal ethics standards encouraging lawyers to discuss ADR.

ADR in the Executive Branch

- Administrative Dispute Resolution Act (“ADRA”) of 1996 set out a vision of an Executive Branch that used ADR to:
 - Improve the decision making process that leads to “more creative, efficient and sensible outcomes;”
 - Save resources
- The ADRA of 1996 requires agencies to issue an ADR policy and appoint a “Dispute Resolution Specialist” to implement that policy.
- Examples of Executive ADR materials include:
 - FAR Subpart 33.2
 - EEOC Regs & MDs
 - Executive Order 12988

DON ADR Policy

SECNAV 5800.13A (22 Dec 2005)

7. Policy

a. Using ADR to the Maximum Extent. ADR techniques shall be used as an alternative to litigation or formal administrative procedures to the maximum extent practicable. Use of these techniques may resolve the entire issue in controversy or a portion of the issue in controversy. The goal is to resolve disputes and conflicts at the earliest stage feasible, by the fastest and least expensive method possible, and at the lowest possible organizational level prior to litigation. Every issue in controversy, regardless of the subject matter, is a potential candidate for ADR.

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Procurement ADR Process Savings

- GAO offers ADR, but it is already fast and relatively informal.
- ASBCA offers mediation, binding summary trials, and other methods.
- DON avoided about \$3M in process costs from FY01 to 05 in 41 cases surveyed.

- Not all avoided costs can be quantified.
- Does not include substantial costs for major documents

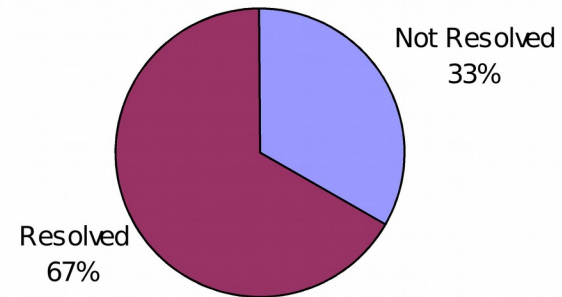
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Non-Quantified Costs Avoided: <u>Documents not Written</u>	
Pleadings	7
Discovery Requests	17
Motions	13
Other Documents	4
Briefs	29
Total	70

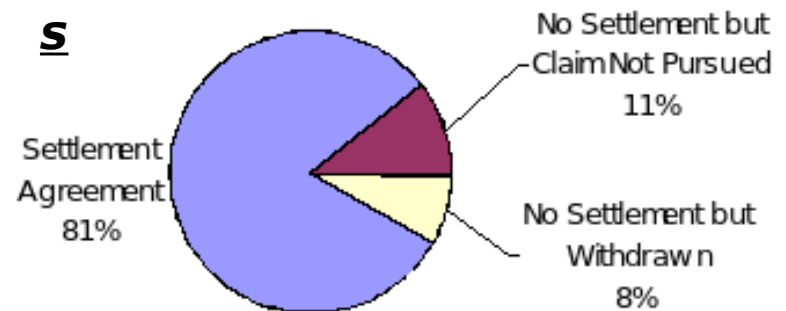
Workplace ADR Results

- DON won the 2002 OPM ADR Award
- Data in 1,239 workplace cases show 67% resolved.
- 19% of resolutions do not use formal settlement agreements. Rather, the claim is simply abandoned.

Outcomes



Resolution



Contact the ADR Program

DON ADR Program Office
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